



GAU-3731  
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#71-10

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of: )  
Das )  
Serial No.: 09/271,762 )  
Filed: 22 April 1999 )  
For: Septal Defect Closure Device )  
To: )  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Attorney Docket: 16848.11.11  
Examiner: Jackson, G.  
Group Art Unit: 3731

<u>Certificate of Mailing</u>	
I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail, postage prepaid, and in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, on	
<u>21 December 1999</u>	
<u>21 Dec '99</u>	<u>Jacquelyn K. Torborg</u>
Date	Signature

**RESPONSE**

The present communication responds to the Office Action mailed 13 September 1999 in this case. In that Office Action, the Examiner issued a provisional obviousness type double patenting rejection over applicant's co-pending Application No. 08/756,776.

Applicant respectfully disagrees with the Examiner's basis for rejecting the present application. The only distinction noted in this Office Action between the claims of the cited application and the present claims is a designation of the size of the disk. Applicant respectfully submits that the Examiner is failing to give due consideration to the other elements of the claims in the present case. Applicant believes that proper consideration, as a whole, will lead to the conclusion that these claims are not merely obvious variants of the claims in the cited application.

While applicant disagrees with the Examiner's obviousness-type double patenting rejection, applicants have enclosed herewith a Terminal Disclaimer to render the Examiner's objection moot. It should be understood that this Terminal Disclaimer is being submitted solely to speed up prosecution of this application and should not be considered an acknowledgment of the propriety of the present rejection.

Applicant has also enclosed a Statement Under 37 C.F.R. § 3.73(b). A check in the amount of \$55.00 accompanies the Terminal Disclaimer. If any additional fees are deemed necessary, they may be charged to Deposit Account No. 061910.

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Applicant has also enclosed a Statement Under 37 C.F.R. § 3.73(b). A check in the amount of \$55.00 accompanies the Terminal Disclaimer. If any additional fees are deemed necessary, they may be charged to Deposit Account No. 061910.

5 The only issue raised in the present Office Action was the obviousness-type double patenting rejection. As the enclosed Terminal Disclaimer obviates this rejection, applicant respectfully submits that the present application is in condition for allowance, prompt notice of which is courteously solicited. If the Examiner has any additional questions or concerns, he is encouraged to call the undersigned to expedite prosecution of this application.

Respectfully submitted,

Dated: 20 Dec 99



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